

§ 14.4

17 CFR Ch. I (4-1-02 Edition)

this part shall, unless otherwise determined by the Commission, be prosecuted by the General Counsel of the Commission or by such attorneys in his office as he may assign.

§ 14.4 Violation of Commodity Exchange Act.

The Commission may deny, temporarily or permanently, the privilege of appearing or practicing before it in any way to any person who is found by the Commission, after notice of and opportunity for hearing in the matter, to have violated, caused, or aided and abetted any violation of the Commodity Exchange Act, as amended, 7 U.S.C. 1 *et seq.*, or the rules and regulations adopted thereunder.

§ 14.5 Criminal conviction.

Any person who after licensing or certification to practice his profession by any competent authority has been convicted of any felony or of a misdemeanor involving fraud or involving moral turpitude in matters related to the regulatory responsibilities of the Commission, and whose conviction has not been reversed by an appellate court, may not appear or practice before the Commission. A conviction within the meaning of this section shall be deemed to have occurred when the convicting court enters its judgment or order, regardless of whether an appeal is pending or could be taken, and includes a judgment on a plea of *nolo contendere*.

§ 14.6 Disbarment or suspension by licensing authority.

Any attorney who has been suspended or disbarred by a Court of the United States or any state or territory or the District of Columbia and any person whose license to practice as an accountant has been revoked or suspended in any state or territory or the District of Columbia may not appear or practice before the Commission during the period when such suspension or revocation is in effect. A suspension or revocation shall be deemed to have occurred when the disbarring, suspending or revoking agency or tribunal enters its order, regardless of whether appeal is pending or could be taken, and includes a judgment or order on a plea of

nolo contendere or the procedural equivalent of such a plea. For purposes of this section it shall be irrelevant that any attorney or accountant who has been suspended, disbarred, or otherwise disqualified from practice before a court or in a jurisdiction continues in professional good standing before other courts or in other jurisdictions.

§ 14.7 Finding of violation of Commodity Exchange Act or Federal securities laws in another proceeding.

(a) *Temporary suspension.* The Commission, with due regard to the public interest, and without preliminary hearing, may by order temporarily suspend from appearing or practicing before it any person who, on or after the effective date of this rule has been by name:

(1) Permanently enjoined by reason of his misconduct by any court of competent jurisdiction (i) whether by consent, default, upon summary judgment or after trial, in any action brought by the Commission based upon violations of any provision of the Commodity Exchange Act, as amended, or of the rules and regulations adopted thereunder, or (ii) after trial or upon summary judgment in any action brought by the U.S. Securities and Exchange Commission based upon any violation of the federal securities laws (15 U.S.C. 77a to 80b-20) or of rules and regulations adopted thereunder;

(2) Found by any court of competent jurisdiction (whether by consent, default, upon summary judgment or after trial) in any action brought by the Commission to which he is a party, or found by the Commission (whether by consent, default, upon summary disposition or after hearing) in any administrative proceeding in which the Commission is a complainant and to which he is a party, to have committed, caused, or aided and abetted a violation of any provision of the Commodity Exchange Act, as amended, or of the rules and regulations promulgated under any of those statutes;

(3) Found upon summary judgment or after trial by any court of competent jurisdiction in any action brought by the U.S. Securities and Exchange Commission to which he is a party, or found by the Securities and Exchange